

December 7, 2017

Mr. Eric J. Chodnicki
Daft McCune Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286

Re: Edward Brown Property Lot 4
111 Woodbrook Lane
Forest Conservation Variance Request
Tracking #02-17-2557

Dear Mr. Chodnicki:

A request for a variance from Baltimore County's Forest Conservation Law has been reviewed by this Department of Environmental Protection and Sustainability (EPS). This request proposes to remove two of three specimen trees on the subject lot for the purpose of constructing a single family dwelling. These trees include a 41-inch diameter white oak and a 62-inch diameter tulip tree. Both of these trees were evaluated by a professional arborist and have been deemed "high risk and very likely to fail". As such, the trees are hazardous, and are proposed to be removed for safety reasons.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The locations of the specimen trees and extent of their Critical Root Zones (CRZs) spread across the entire buildable area of the property, and would be impossible to avoid during construction of a new house on the site. Additionally, we considered the relatively small size of the property (25,926 square feet), and the fact two stormwater management facilities limit opportunities to move the proposed house location. Therefore, we find that full application of the law would deprive the petitioner of all beneficial use of the property; thus, this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires the petitioner to show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. Rather than the general conditions in the neighborhood, the petitioner's plight is due largely to the distribution of the existing specimen trees onsite and the fact that these trees have been deemed hazardous by a professional arborist. Therefore, we find that this criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Safe removal of two specimen trees that have been deemed "high risk and very likely to fail" by a professional arborist will not alter the essential character of the neighborhood. Consequently, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The subject specimen trees are not located in a Forest Buffer Easement, and are located several hundred feet from the nearest stream. Therefore, we find that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The request is based facts that the two specimen trees are hazardous, and that the CRZs of these trees spread across the buildable area of the property. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Proposing to mitigate impacts to two specimen trees located outside of the Forest Buffer by protecting the CRZ of the remaining tree during construction, and paying a fee-in-lieu to the Baltimore County that could be spent on planting forest elsewhere in the County would be consistent with the spirit and intent of the Forest Conservation Law. Therefore, we find that this criterion has been met by the variance request.

Based upon our review, this Department finds that the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. A \$4,879.27 fee-in-lieu of mitigation for the removal of the two specimen trees shall be paid into the Baltimore County Forest Conservation Fund prior to removal of the trees.

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2. Prior to issuance of any Baltimore County permit on Lot 4, blaze orange high visibility construction fence shall be installed along the limit of disturbance wherever the limit of disturbance is within 50 feet of the remaining specimen tree on the property.
3. The following note must appear on all subsequent plans for the property:

“A variance was granted on December 7, 2017 to Baltimore County’s Forest Conservation Law to allow impacts to two hazardous specimen trees on this site. Conditions were placed on this variance, including payment of a fee-in-lieu of mitigation into the Baltimore County Forest Conservation Fund and protecting the remaining onsite specimen tree.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner/contract purchaser sign the statement on the next page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Glenn E. Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

c. Marian Honeczy, Maryland DNR

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I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Property Owner's Signature

Date

Printed Name

Contract Purchaser's Signature

Date

Printed Name